

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1681

Introduced by Assembly Member Smyth

(Coauthors: Assembly Members Achadjian, Bill Berryhill, Conway, Cook, Donnelly, Fletcher, Beth Gaines, Garrick, Grove, Hagman, Halderman, Harkey, Jeffries, Jones, Knight, Logue, Mansoor, Miller, Morrell, Nestande, Nielsen, Norby, Olsen, Valadao, and Wagner)

February 14, 2012

~~An act to amend Section 35700 of the Education Code, relating to school districts.~~ *An act to add Section 1243.5 to the Government Code, relating to public employees' retirement.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1681, as amended, Smyth. ~~School districts: reorganization.~~ *Public employees' retirement: felony forfeiture.*

Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This bill would require that an employee of a school district, county office of education, or charter school, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, or service retirement, or other benefits, forfeit retirement benefits earned or

accrued from the earliest date of the commission of the felony to the forfeiture date, as specified. The bill would also require any contributions to the public retirement system made by the employee on or after the earliest date of commission of the felony to be returned, without interest, to the employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension administrator.

~~Existing law requires that an action to reorganize one or more school districts be initiated upon the filing with the county superintendent of schools of a petition to reorganize one or more school districts if the petition is signed by any of 4 specified groups.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1243.5 is added to the Government Code,
2 to read:
3 1243.5. (a) If an employee of a school district, county office
4 of education, or charter school is convicted by a state or federal
5 trial court of any felony under state or federal law for conduct
6 arising out of, or in the performance of, his or her official duties,
7 in pursuit of the office or appointment, or in connection with
8 obtaining salary, disability retirement, service retirement, or other
9 benefits, he or she shall forfeit all accrued rights and benefits in
10 any public retirement system in which he or she is a member to
11 the extent provided in subdivision (b) and shall not accrue further
12 benefits in that public retirement system, effective on the date of
13 the conviction.
14 (b) (1) An employee of a school district, county office of
15 education, or charter school shall forfeit all the retirement benefits
16 earned or accrued from the earliest date of the commission of any
17 felony described in subdivision (a) to the forfeiture date, inclusive.
18 The retirement benefits shall remain forfeited notwithstanding any
19 reduction in sentence or expungement of the conviction following
20 the date of the employee's conviction. Retirement benefits
21 attributable to service performed prior to the date of the first

1 *commission of the felony for which the employee was convicted*
2 *shall not be forfeited as a result of this section.*

3 *(2) For purposes of this subdivision, “forfeiture date” means*
4 *the date of the conviction.*

5 *(c) (1) Any contributions to the public retirement system made*
6 *by the employee described in subdivision (a) on or after the earliest*
7 *date of the commission of any felony described in subdivision (a)*
8 *shall be returned, without interest, to the employee upon the*
9 *occurrence of a distribution event unless otherwise ordered by a*
10 *court or determined by the pension administrator.*

11 *(2) For the purposes of this subdivision, a “distribution event”*
12 *means any of the following:*

13 *(A) Separation from employment.*

14 *(B) Death of the member.*

15 *(C) Retirement of the member.*

16 *(d) A school district, county office of education, or charter*
17 *school that employs an employee described in subdivision (a) and*
18 *that employee shall each notify the public retirement system in*
19 *which the employee is a member of that employee’s conviction*
20 *within 60 days of conviction in the trial court. The school district,*
21 *county office of education, or charter school’s notification*
22 *obligations shall not apply if the employee’s conviction occurs*
23 *after the employee separates from employment or office with that*
24 *school district, county office of education, or charter school. The*
25 *operation of this section is not dependent upon the performance*
26 *of the notification obligations specified in this subdivision.*

27 *(e) A public retirement system may assess a school district,*
28 *county office of education, or charter school a reasonable amount*
29 *to reimburse the cost of audit, adjustment, or correction, if it*
30 *determines that the school district, county office of education, or*
31 *charter school failed to comply with this section.*

32 *(f) If an employee’s conviction is reversed and that decision is*
33 *final, the employee shall be entitled to recover the forfeited*
34 *retirement benefits as adjusted for any contributions received*
35 *pursuant to subdivision (c).*

36 ~~SECTION 1. Section 35700 of the Education Code is amended~~
37 ~~to read:~~

38 ~~35700. An action to reorganize one or more school districts is~~
39 ~~initiated upon the filing, with the county superintendent of schools,~~

1 of a petition to reorganize one or more school districts signed by
2 any of the following:

3 (a) ~~At least 25 percent of the registered voters residing in the~~
4 ~~territory proposed to be reorganized if the territory is inhabited.~~
5 ~~Where the petition is to reorganize territory in two or more school~~
6 ~~districts, the petition shall be signed by at least 25 percent of the~~
7 ~~registered voters in that territory in each of those school districts.~~

8 (b) ~~A number of registered voters residing in the territory~~
9 ~~proposed to be reorganized, equal to at least 8 percent of the votes~~
10 ~~cast for all candidates for Governor at the last gubernatorial election~~
11 ~~in the territory proposed to be reorganized, where the affected~~
12 ~~territory consists of a single school district with over 200,000~~
13 ~~pupils in average daily attendance and the petition is to reorganize~~
14 ~~the school district into two or more school districts.~~

15 (c) ~~The owner of the property, provided that territory is~~
16 ~~uninhabited and the owner thereof has filed either a tentative~~
17 ~~subdivision map with the appropriate county or city agency or an~~
18 ~~application for any project, as defined in Section 21065 of the~~
19 ~~Public Resources Code, with one or more local agencies.~~

20 (d) ~~A majority of the members of the governing boards of each~~
21 ~~of the school districts that would be affected by the proposed~~
22 ~~reorganization.~~